

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

**Relationship to Federal Requirements**

**RULE CAPTION**

Align Tank Rules with federal regulations and improve existing rules

Answers to the following questions identify how the proposed rulemaking relates to federal requirements and potential justification for differing from federal requirements. The questions are required by OAR 340-011-0029(1).

**1. Are there federal requirements that are applicable to this situation? If so, exactly what are they?**

Yes. The federal regulations pertaining to underground storage tanks (USTs or tanks) were promulgated by the Environmental Protection Agency (EPA) in 1988 (40 CFR Part 280 Subparts A-H) and UST provisions were included in the Energy Policy Act of 2005.

**2. Are the applicable federal requirements performance based, technology based, or both with the most stringent controlling?**

UST requirements are predominantly performance based.

**3. Do the applicable federal requirements specifically address the issues that are of concern in Oregon? Was data or information that would reasonably reflect Oregon's concern and situation considered in the federal process that established the federal requirements?**

Yes

**4. Will the proposed requirement (rulemaking) improve the ability of the regulated community to comply in a more cost effective way by clarifying confusing or potentially conflicting requirements (within or cross-media), increasing certainty, or preventing or reducing the need for costly retrofit to meet more stringent requirements later?**

Yes. Existing federal regulations can be difficult to understand. The proposed rules clearly explain what actions a tank owner must take to comply with the regulations.

**5. Is there a timing issue which might justify changing the time frame for implementation of federal requirements?**

No.

**6. Will the proposed requirement (rulemaking) assist in establishing and maintaining a reasonable margin for accommodation of uncertainty and future growth?**

Not applicable.

**7. Does the proposed requirement (rulemaking) establish or maintain reasonable equity in the requirements for various sources? (level the playing field)**

Yes. The proposed revisions clarify the UST requirements so all users can better understand the regulations. The annual operating certificate renewal process will ensure tank owners maintain a financial responsibility mechanism at all times. This ensures that some tank owners do not have a financial advantage over others by not paying premiums.

**8. Would others face increased costs if a more stringent rule is not enacted?**

Possibly. The proposed rule revisions are anticipated to increase compliance rates and improve leak detection through an expanded operator training program and also ensure tank owners maintain coverage to pay for the cleanup of any leaks that do occur. Without these revisions, the public and nearby business could be affected by the pollution that results from a leak or spill or the state may be required to bear the expense of cleanup.

**9. Does the proposed requirement (rulemaking) include procedural requirements, reporting or monitoring requirements that are different from applicable federal requirements? If so, Why? What is the "compelling reason" for different procedural, reporting or monitoring requirements?**

Yes. Traditional enforcement is currently required to terminate an operating certificate. This is a time-consuming and resource-intensive process that will be replaced with the proposed annual operating certificate and renewal process which will identify under what conditions a certificate will not be renewed. This process will allow for a more streamlined compliance approach as fuel cannot be distributed to facilities without a current operating certificate.

**10. Is demonstrated technology available to comply with the proposed requirement (rulemaking)?**

Yes.

**11. Will the proposed requirement (rulemaking) contribute to the prevention of pollution or address a potential problem and represent a more cost effective environmental gain?**

Yes. The primary purpose of the UST compliance program is to prevent and quickly detect leaks from USTs that could cause pollution to soil and groundwater. The proposed rule revisions improve compliance with leak detection methods or prevent leaks by:

- Revising the current UST operator training requirements to include three classes of operators that require training. This proposal increases the number of people required to be trained to prevent and quickly detect leaks from USTs.
- Requiring secondary containment and monitoring for new or replaced tanks or piping. Monitoring secondary containment allows operators to detect a leak from a UST system before it reaches the environment.

- Ensuring tank owners have the required financial responsibility (i.e., environmental insurance) to clean up a release when it occurs. The proposed annual operating certificate will require demonstration of financial responsibility through the renewal process.